

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5547 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

JASHWANTKUMAR S FISADIA

Versus

STATE OF GUJARAT

Appearance:

MS MAMTA VYAS VYAS for Petitioner

MR SR DIVETIA for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 11/08/97

ORAL JUDGMENT

#. Heard learned counsel for the parties.

#. It is not in dispute that under the order dated 22.12.86, the petitioner has been given appointment on the post of Gujarati Typist on the basis of his selection, for this post, with reference to the year 1984. In view of this fact, now the relief of the nature as prayed for by the petitioner in this Special Civil

Application for direction to respondents to give him appointment on the said post no more survives.

#. The learned counsel for the petitioner submits that in the select list of Gujarati Typists prepared on recommendation of the centralized recruitment scheme for the year 1983-84, the petitioner's name was at Sr.No.4 and the persons whose name stood at Sr.No.10 and 15 have been given appointment, whereas the petitioner has been ignored. Now under the order dated 22.12.86, appointment has been given, but the petitioner will suffer loss of seniority without there being any fault on his part.

#. Reply to the Special Civil Application has been filed and justification is sought to be given that the person at Sr.No.15 was given appointment as he was candidate from ST category whereas the person at Sr.No.10 was not given appointment on the basis of that select list. He was given appointment on the basis of select list prepared for the year 1984-85 for which the petitioner has not applied.

#. From the order dated 22nd December 1986, it comes out that the appointment of the petitioner has been made with reference to the year 1984 and the respondents have admitted that for the year 1984-85, the petitioner has not applied. So, the only inference which follows therefrom is that this appointment have been given to the petitioner with reference to his name in the select list prepared for the year 1983-84. If that is the position then though the petitioner has been given appointment in later point of time, the person at Sr.No.15 in the said select list may not be entitled for seniority above petitioner only on the basis of the fact that he has been given appointment earlier in point of time on the basis of roster system. Similarly, so far as other person is concerned, if he has been given appointment from the select list for the year 1983-84, then certainly the petitioner who has been appointed with reference to earlier selection, his claim for seniority may have some justification. However, both these aforesaid persons are not parties before this Court and as such, no final opinion can be given and as such, I consider it to be appropriate to leave this matter to be decided by respondents after giving notice to all the concerned persons.

#. In the result, the Special Civil Application is disposed of with directions to the respondents to decide the claim of seniority of the petitioner over two persons, namely Shri Trivedi Prafulchandra Chunilal and

Patel Navalbhai Fatehsinhbhai, in the cadre of Gujarati Typist, after hearing the concerned persons. This exercise has to be undertaken within a period of six months from the date of receipt of certified copy of this order. In case the claim of the petitioner of seniority over these two persons in the cadre of Gujarati Typist does not found favour with respondents, a reasoned order may be passed and a copy of the same may be sent to the petitioner by registered post A.D. The Special Civil Application and Rule stand disposed of in aforesaid terms with no order as to costs.

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